

EXHIBIT 2

In The Matter Of:

BLUE SPIKE, LLC

v.

TEXAS INSTRUMENTS, et al.

MICHAEL W. BERRY - Vol. 1

February 10, 2015

CONFIDENTIAL
UNDER THE PROTECTIVE ORDER



UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

)
BLUE SPIKE, LLC,)
)
)
)
Plaintiffs,)
)
)
vs.) NO. 6:12-cv-576 MHS
)
TEXAS INSTRUMENTS, et al.,)
)
)
Defendants.)

VIDEOTAPED DEPOSITION UPON ORAL EXAMINATION
OF:
MICHAEL W. BERRY

1221 2nd Avenue, Suite 500

Seattle, Washington

* * * * *

CONFIDENTIAL - UNDER THE PROTECTIVE ORDER

DATE: February 10, 2015

REPORTED BY: Tia Reidt
CCR #2798, RPR

SF-021137

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1 APPEARANCES

2

3 On behalf of the Plaintiff Blue Spike:

4 GARTEISER HONEA

5 RANDALL GARTEISER

6 119 West Ferguson

7 Tyler, TX 75702

8 (903) 705-7420

9 RGarteiser@GHIPLaw.com

10

11 On behalf of the Defendant Audible Magic:

12 ORRICK, HERRINGTON & SUTCLIFFE

13 GABRIEL M. RAMSEY

14 405 Howard Street

15 San Francisco, CA 94105

16 (415) 773-5535

17 GRamsey@Orrick.com

18

19 On behalf of the Defendant CBS Interactive and Last.fm:

20 WEIL, GOTSHAL & MANGES

21 ANDREW L. PERITO

22 201 Redwood Shores Parkway

23 Redwood Shores, CA 94065

24 (650) 802-3993

25 Andrew.Perito@Weil.com

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1 APPEARANCES CONTINUED

2

3 On behalf of the Defendant Adobe:

4 FARELLA, BRAUN & MARTEL

5 EUGENE Y. MAR

6 235 Montgomery Street

7 San Francisco, CA 94104

8 (415) 954-4400

9 EMar@FBM.com

10

11 On behalf of the third-party witness:

12 HILLIS, CLARK, MARTIN & PETERSON

13 ERIC D. LANSVERK

14 MICHAEL R. SCOTT

15 1221 2nd Avenue, Suite 500

16 Seattle, WA 98101

17 (206) 470-7634

18 EDL@HCMP.com

19 MRS@HCMP.COM

20

21

22

23

24

25

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1 APPEARANCES CONTINUED

2

3 On behalf of the Defendant Morpho Trust USA, L-1 Identity
4 Solutions, Morpho Track, Inc., and Safran USA

5 MORGAN LEWIS

6 LINDSEY M. SHINN

7 2 Palo Alto Square

8 3000 El Camino Real, Suite 700

9 Palo Alto, CA 94306

10 (650) 843-7240

11 LShinn@MorganLewis.com

12

13 ALSO PRESENT:

14

15 NICK MARTINI,

16 Adobe inhouse counsel

17

18 NICHOLAS RAPP,

19 Videographer

20

21

22

23

24

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11 EXHIBIT INDEX

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| 13 | EXHIBIT | DESCRIPTION | PAGE |
| 14 | EXHIBIT 40 | Document entitled Exhibit 6, Computer Vision for Music Identification. | 96 |
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| 17 | EXHIBIT 41 | Computer Vision for Music Identification Abstract. | 97 |
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| | | |
|----|--|----------|
| 1 | individuals? | 02:35:30 |
| 2 | A. They were all members of Muscle Fish, which is | 02:35:30 |
| 3 | a contract -- software contracting company that I | 02:35:35 |
| 4 | subcontracted for starting in 1997. | 02:35:40 |
| 5 | Q. Okay. If you could please turn to Column 3 - | 02:35:43 |
| 6 | it will be labeled at the top "Column 3" - of Exhibit 18 | 02:35:49 |
| 7 | and let me know when you're there. | 02:35:53 |
| 8 | A. Column 3. | 02:36:06 |
| 9 | Q. Okay. If you can just take a moment and look | 02:36:07 |
| 10 | at Column 3 lines 4 through 21, just that paragraph, and | 02:36:10 |
| 11 | let me know when you have had a chance to review that | 02:36:15 |
| 12 | briefly. | 02:36:18 |
| 13 | A. (Witness peruses document.) | 02:36:21 |
| 14 | Okay. | 02:36:58 |
| 15 | Q. Okay. So first of all, I'm going ask you: | 02:36:58 |
| 16 | Column 3 lines 5 through 21 of the -223 patent describes | 02:37:03 |
| 17 | the creation of a feature vector containing MFCC values. | 02:37:08 |
| 18 | Do you see that? | 02:37:13 |
| 19 | A. Yes. | 02:37:14 |
| 20 | Q. So if you could turn quickly to the front of | 02:37:18 |
| 21 | Exhibit 18, the -223 patent. | 02:37:21 |
| 22 | You see that the -223 patent issued in June of | 02:37:23 |
| 23 | 1999; correct? | 02:37:26 |
| 24 | A. Yes. | 02:37:27 |
| 25 | Q. <u>So when you filed your signal abstracting</u> | 02:37:28 |

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| | | |
|----|--|----------|
| 1 | patent in 2000, is it fair to say it was not your intent | 02:37:32 |
| 2 | to try to cover some prior system -- technique of | 02:37:36 |
| 3 | creating feature vectors containing MFCC values? You | 02:37:41 |
| 4 | weren't trying to claim that, were you? | 02:37:46 |
| 5 | MR. GARTEISER: Hold on. Object to form. | 02:37:47 |
| 6 | BY MR. RAMSEY: | 02:37:50 |
| 7 | Q. That was not your intent; right? | 02:37:50 |
| 8 | A. That was not my intent. | 02:37:50 |
| 9 | Q. Okay. And is it fair to say that the signal | 02:37:53 |
| 10 | abstracting technique in your later filed -472 patent | 02:37:56 |
| 11 | was a different type of compression technique than is | 02:38:02 |
| 12 | described in paragraph 3? | 02:38:09 |
| 13 | MR. LANSVERK: Object to form. | 02:38:13 |
| 14 | BY MR. RAMSEY: | 02:38:13 |
| 15 | Q. That's a horrible question. I'm going to | 02:38:14 |
| 16 | start all over. | 02:38:16 |
| 17 | Is it fair to say that the signal abstract in | 02:38:17 |
| 18 | your -472 patent just is not a feature vector containing | 02:38:20 |
| 19 | MFCC values? It's something different than that? | 02:38:26 |
| 20 | MR. LANSVERK: Again, object to the form. | 02:38:28 |
| 21 | THE WITNESS: The -472 patent is not specific | 02:38:33 |
| 22 | as to the method by which a feature -- you know, a | 02:38:36 |
| 23 | signal abstract would be created. | 02:38:42 |
| 24 | BY MR. RAMSEY: | 02:38:45 |
| 25 | Q. Okay. So you talked just a moment ago about | 02:38:47 |

1 C E R T I F I C A T E
2

3 STATE OF WASHINGTON)
4 COUNTY OF KING) ss
5

6 I, the undersigned officer of the Court, under
7 my commission as a Notary Public in and for the State of
Washington, hereby certify that the foregoing deposition
upon oral examination of the witness named herein was
taken stenographically before me and thereafter
transcribed under my direction;

8 That the witness before the examination was first
9 duly sworn by me to testify truthfully; that the
10 transcript of the deposition is a full, true and correct
11 transcript of the testimony, including questions and
answers and all objections, motions, and exceptions of
12 counsel made and taken at the time of the foregoing
examination;

13 That I am neither attorney for nor a relative or
employee of any of the parties to the action; further,
14 that I am not a relative or employee of any attorney or
counsel employed by the parties hereto, nor financially
interested in its outcome.

15 IN WITNESS WHEREOF, I have hereunto set my hand
16 and seal this day of , 2015.



17
18
19
20 Tia B. Reidt
21

22 Tia B. Reidt
23 NOTARY PUBLIC in and for
the State of Washington,
residing in King County.
My commission expires 6-3-18.
24
25

MERRILL CORPORATION

LegaLink, Inc.



27 Maiden Lane, Suite 300
San Francisco, CA 94108 • (415) 357-4300

February 20, 2015

Michael Berry
c/o Eric Lansverk
Hillis, Clark, Martin & Peterson
1221 2nd Avenue, Suite 500
Seattle, WA 98101

In re: Spike v. Texas Instruments, et al.

Dear Mr. Berry:

Please be advised that the original transcript of your deposition taken on February 10, 2015 in the above-entitled matter is available for reading and signing. The original will be held at the offices of:

Merrill Corporation
27 Maiden Lane, Suite 300
San Francisco, California 94108
(415)357-4300

for thirty (30) days in accordance with Federal Rules of Civil Procedure Section 30 (e). If you do not sign your deposition within 30 days from the date of this letter, it may be used as fully as though signed.

If you are represented by counsel in this matter, you may wish to ask your attorney how to proceed. If you are not represented by counsel and wish to review your transcript, please contact our office for a mutually convenient appointment to review your deposition.

Thank you for your cooperation in this matter.

Very truly yours,

Client Services
Merrill Corporation, San Francisco

cc: Original transcript
All Counsel